

AMENDMENT NO. _____ Calendar No. _____

Purpose: _____

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

(no.) _____

(title) _____
_____Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 At the appropriate place, insert the following:

2 **SEC. __. LIMITATION ON AMOUNT OF ATTORNEY'S CONTIN-**
3 **GENCY FEES.**4 (a) IN GENERAL.—An attorney who represents, on
5 a contingency fee basis, a plaintiff in a medical mal-
6 practice liability action may not charge, demand, receive,
7 or collect for services rendered in connection with such ac-
8 tion (including the resolution of the claim that is the sub-
9 ject of the action under any alternative dispute resolution
10 system) in excess of—

1 (1) 33⅓ percent of the first \$150,000 of the
2 total amount recovered by judgment or settlement in
3 such action; plus

4 (2) 25 percent of any amount recovered in ex-
5 cess of the first \$150,000 recovered by such judg-
6 ment or settlement,

7 unless otherwise determined under State law. Such
8 amount shall be computed after deductions are made for
9 all the expenses associated with the claim other than those
10 attributable to the normal operating expenses of the attor-
11 ney.

12 (b) CALCULATION OF PERIODIC PAYMENTS.—In the
13 event that a judgment or settlement includes periodic or
14 future payments of damages, the amount recovered for
15 purposes of calculating the limitation on the contingency
16 fee under subsection (a) may, in the discretion of the
17 court, be based on the cost of the annuity or trust estab-
18 lished to make the payments. In any case in which an an-
19 nuity or trust is not established to make such payments,
20 such amount shall be based on the present value of the
21 payments.

22 (c) DEFINITIONS.—In this section:

23 (1) CONTINGENCY FEE.—The term “contin-
24 gency fee” means any fee for professional legal serv-
25 ices which is, in whole or in part, contingent upon

1 the recovery of any amount of damages, whether
2 through judgment or settlement.

3 (2) HEALTH CARE PROFESSIONAL.—The term
4 “health care professional” means any individual who
5 provides health care services in a State and who is
6 required by the laws or regulations of the State to
7 be licensed or certified by the State to provide such
8 services in the State.

9 (3) HEALTH CARE PROVIDER.—The term
10 “health care provider” means any organization or
11 institution that is engaged in the delivery of health
12 care services in a State and that is required by the
13 laws or regulations of the State to be licensed or cer-
14 tified by the State to engage in the delivery of such
15 services in the State.

16 (4) MEDICAL MALPRACTICE LIABILITY AC-
17 TION.—The term “medical malpractice liability ac-
18 tion” means a cause of action brought in State or
19 Federal court against a health care provider or
20 health care professional by which the plaintiff alleges
21 a medical malpractice claim.